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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/728,395	12/01/2000	Paul Mills	11033-063001/ A9942US-DJL	3395
26161	7590	09/11/2008		
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P.O. BOX 1022				
MINNEAPOLIS, MN 55440-1022				
EXAMINER				
PARADISO, JOHN ROGER				
ART UNIT		PAPER NUMBER		
3721				
NOTIFICATION DATE		DELIVERY MODE		
09/11/2008		ELECTRONIC		

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RECORD OF ORAL HEARING
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PAUL MILLS

Appeal 2008-0342
Application 09/728,395
Technology Center 3700

Oral Hearing Held: July 9, 2008

Before WILLIAM F. PATE, III, JENNIFER D. BAHR, and
JOHN C. KERINS, Administrative Patent Judges

ON BEHALF OF THE APPELLANT:

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The above-entitled matter came on for hearing on July 9, 2008, commencing at 9:00 a.m. at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

PROCEEDINGS

JUDGE PATE: Good morning, this is calendar number 13. The appellant is Paul Mills and who am I speaking to on that end?

MR. KRUEGER: I'm Brett Krueger, Patent Attorney. This is Chris Sullivan, Director at Markem.

JUDGE PATE: OK, go ahead.

MR. KRUEGER: So the application under appeal describes an invention that significantly improves the practical maintenance and control of a packaging system. Packaging Systems in general include multiple pieces of equipment for performing the specialized tasks of marking conveying and collecting packages into packaged units. [Inaudible]... configured with the communication protocols of each individual piece of equipment. However, if one of those pieces of equipment fails, the factory would need to replace that piece of equipment with another piece of equipment with the same communication protocols or they would have to reconfigure the control computer for a new piece of equipment with its respective communication protocols. As you may know, this can be tricky; it requires a technician or a person of a particular skill set to reconfigure the computer. When you reconfigure computers it can lead to instability of the system if there's incompatible drivers or what not, where as the invention at issue here allows a person of relatively little skill to simply disconnect the old piece of equipment and it's respective command translator, which I'll explain further in a few minutes and connect a new piece of equipment and its respective command translator to a data bus that's connected to the control computer and there's no reconfiguration of the control computer.

1 And this provides a significant improvement. The examiner in the final
2 office action is contending that the reference Komiya discloses peripheral
3 units connected to a controller and by doing so the examiner is relying on a
4 theory of inherency
5 that if it discloses that, if it shows peripheral units connected to a controller
6 that it inherently discloses a protocol for interpreting commands from that
7 controller to the peripheral units and then if it has that he's relying on
8 inherency again that it discloses a protocol for interpreting commands, I
9 mean that inherently discloses means to translate data bus commands
10 appropriate to those specific components into a command protocol that is
11 ready at the connected component. It's our stance, basically that Komiya
12 does not mention translation of data bus commands and that it's not
13 necessary for the operation of the system in Komiya to have translation of
14 data bus commands to operate. Komiya simply discloses a control computer
15 that issues instructions individually to facilities stations and that means that
16 that control computer can be configured to issue commands according to a
17 pre configured communication protocol for those individual stations, which
18 is typical with those types of systems and it is not like the system that we're
19 describing in our application. So simply put, Komiya doesn't disclose
20 issuing commands according to a common computer protocol, which is
21 translated into component specific commands, by a command translator.
22 And it's this command translator that really allows the system to be modular.
23 It allows, like I said earlier, a person to disconnect that machine and its
24 associated command translator from a data bus and reconnect another
25 machine and it's respective command translator without having to ever

1 touch the control computer. Do you have any questions regarding the
2 application or the examiners position?

3 JUDGE PATE: Judge Kerins, do you have any questions?

4 JUDGE KERINS: I do not.

5 JUDGE PATE: Judge Bahr

6 JUDGE BAHR: No

7 JUDGE PATE: I have no questions. I think we understand the issue in
8 this case. If that's the end of your presentation, we're ready to take this case
9 under advisement.

10 BRETT KRUEGER: All right, well very good. We enjoyed speaking
11 with you and we look forward to receiving your opinion. And I beg your
12 pardon, I'm sorry but I didn't receive your names at the start. I pardon that.

13 JUDGE PATE: OK, yeah that was my fault. We should have
14 introduced- We've got Judge Kerins here, Judge Bahr on my right and I'm
15 Judge Pate.

16 BRETT KRUEGER: It was very nice meeting you. We thank you
17 very much.

18 (Whereupon, at approximately 9:05 a.m., the proceedings were concluded.)